

HOUSE BILL NO. 628

INTRODUCED BY R. STOKER

BY REQUEST OF THE HOUSE JUDICIARY STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "~~AN ACT CREATING THE OFFENSES OF CARELESS DRIVING RESULTING IN DEATH AND RECKLESS DRIVING RESULTING IN DEATH~~"; PROVIDING A STATUTE OF LIMITATIONS FOR PROSECUTION ~~AND PROVIDING PENALTIES OF CARELESS DRIVING RESULTING IN DEATH AND RECKLESS DRIVING RESULTING IN DEATH~~; AND AMENDING SECTIONS ~~SECTION~~ SECTIONS 45-1-205 AND 61-5-405, ~~61-5-405, 61-8-301, 61-8-302, 61-8-715, AND 61-8-716~~; MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) Except as provided in subsection (9), a prosecution for a felony offense under 45-5-502, 45-5-503, or 45-5-507(4) or (5) may be commenced within 10 years after it is committed, except that it may be commenced within 10 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(c) Except as provided in subsection (9), a prosecution under 45-5-504, 45-5-505, 45-5-507(1), (2), (3), or (6), 45-5-625, or 45-5-627 may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

1 (a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1
2 year after the termination of the minority or incompetency;

3 (b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by
4 a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and
5 is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer
6 becomes aware of the offense.

7 (4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a
8 computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved
9 person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the
10 offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the
11 prosecuting officer becomes aware of the offense.

12 (5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife
13 violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

14 (6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations
15 of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be
16 brought within 3 years after an offense is committed.

17 (7) (a) An offense is committed either when every element occurs or, when the offense is based upon
18 a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the
19 day after the offense is committed.

20 (b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following
21 the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control
22 over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be
23 commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over
24 the property, except that the prosecution must be commenced within 1 year after the investigating officer
25 discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

26 (8) A prosecution is commenced either when an indictment is found or an information or complaint is
27 filed.

28 (9) If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection
29 (1)(b) or (1)(c) has expired, a prosecution may be commenced within 1 year after the suspect is conclusively
30 identified by DNA testing.

1 (10) A prosecution for reckless driving resulting in death under 61-8-301 may be commenced within 3
2 years after the offense is committed.

3 (11) A prosecution of careless driving resulting in death under 61-8-302 may be commenced within 3
4 years after the offense is committed."

5
6 **SECTION 2. SECTION 61-5-405, MCA, IS AMENDED TO READ:**

7 **"61-5-405. Offenses furnishing ground for suspension or revocation of license -- return to**
8 **licensing jurisdiction of abstracts of court records and reports of conviction.** (1) Items enumerated in Article
9 IV(1), subsections (a), (b), (c), and (d) of 61-5-401 refer specifically to 45-5-103, 45-5-104, 61-8-401, the definition
10 of felony as provided in 45-2-101, and 61-7-103, respectively.

11 (2) In addition to convictions mentioned in subsection (1), the department, for the purpose of suspension,
12 revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct
13 reported as it would if the conduct had occurred in this state for:

14 (a) convictions of perjury or the making of a false affidavit relating to the ownership or operation of a
15 motor vehicle (61-5-303); and

16 (b) three convictions of reckless driving committed within a period of 12 months (61-8-301); or

17 (c) convictions of careless driving resulting in death or reckless driving resulting in death.

18 (3) Court abstracts or reports of conviction received by the department that name an individual licensed
19 in another jurisdiction must be forwarded to the jurisdiction of licensure. The department may not take action
20 against the driver's license or driving privilege of the individual as may be required elsewhere in this title."

21
22 ~~Section 2. Section 61-5-405, MCA, is amended to read:~~

23 ~~"61-5-405. Offenses furnishing ground for suspension or revocation of license -- return to~~
24 ~~licensing jurisdiction of abstracts of court records and reports of conviction.~~ (1) Items enumerated in Article
25 IV(1), subsections (a), (b), (c), and (d) of 61-5-401 refer specifically to 45-5-103, 45-5-104, 61-8-401, the definition
26 of felony as provided in 45-2-101, and 61-7-103, respectively.

27 ~~(2) In addition to convictions mentioned in subsection (1), the department, for the purpose of suspension,~~
28 ~~revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct~~
29 ~~reported as it would if the conduct had occurred in this state for:~~

30 ~~(a) convictions of perjury or the making of a false affidavit relating to the ownership or operation of a~~

1 motor vehicle (61-5-303); and

2 ~~—— (b) three convictions of reckless driving or reckless driving resulting in death committed within a period~~
3 ~~of 12 months (61-8-301).~~

4 ~~—— (3) Court abstracts or reports of conviction received by the department that name an individual licensed~~
5 ~~in another jurisdiction must be forwarded to the jurisdiction of licensure. The department may not take action~~
6 ~~against the driver's license or driving privilege of the individual as may be required elsewhere in this title."~~

7
8 ~~——~~ **Section 3.** Section 61-8-301, MCA, is amended to read:

9 ~~——~~ **"61-8-301. Reckless driving -- reckless endangerment of highway worker -- reckless driving**
10 **resulting in death.** (1) A person commits the offense of reckless driving if the person:

11 ~~—— (a) operates a vehicle in willful or wanton disregard for the safety of persons or property; or~~

12 ~~—— (b) operates a vehicle in willful or wanton disregard for the safety of persons or property while passing;~~
13 ~~in either direction, a school bus that has stopped and is displaying the visual flashing red signal, as provided in~~
14 ~~61-8-351 and 61-9-402. This subsection (1)(b) does not apply to situations described in 61-8-351(6).~~

15 ~~—— (2) A municipality may enact and enforce 61-8-715 and subsection (1) of this section as an ordinance.~~

16 ~~—— (3) A person who is convicted of the offense of reckless driving or of reckless endangerment of a~~
17 ~~highway worker is subject to the penalties provided in 61-8-715.~~

18 ~~—— (4) (a) A person commits the offense of reckless endangerment of a highway worker if the person~~
19 ~~purposely, knowingly, or negligently drives a motor vehicle in a highway construction zone in a manner that~~
20 ~~endangers persons or property or if the person purposely removes, ignores, or intentionally strikes an official~~
21 ~~traffic control device in a construction zone for reasons other than:~~

22 ~~—— (i) avoidance of an obstacle;~~

23 ~~—— (ii) an emergency; or~~

24 ~~—— (iii) to protect the health and safety of an occupant of the vehicle or of another person.~~

25 ~~—— (b) As used in this section:~~

26 ~~—— (i) "construction zone" has the same meaning as is provided in 61-8-314; and~~

27 ~~—— (ii) "highway worker" means an employee of the department of transportation, a local authority, a utility~~
28 ~~company, or a private contractor.~~

29 ~~—— (5) A person commits the offense of reckless driving resulting in death if the person operates a vehicle~~
30 ~~in willful or wanton disregard for the safety of persons or property and that operation results in the death of~~

1 another person."

2
3 ~~Section 4. Section 61-8-302, MCA, is amended to read:~~

4 ~~"61-8-302. Careless driving -- careless driving resulting in death. (1) A person operating or driving~~
5 ~~a vehicle on a public highway shall drive it in a careful and prudent manner that does not unduly or unreasonably~~
6 ~~endanger the life, limb, property, or other rights of a person entitled to the use of the highway. A person commits~~
7 ~~the offense of careless driving if the driver fails to operate a vehicle on a public highway in a careful and prudent~~
8 ~~manner and that failure endangers the life, limb, property, or other rights of a person:~~

9 ~~(2) A person commits the offense of careless driving resulting in death if the driver fails to operate a~~
10 ~~vehicle on a public highway in a careful and prudent manner and that failure causes the death of another person:~~

11 ~~(2)(3) A person who is convicted of the offense of careless driving or careless driving resulting in death~~
12 ~~is subject to the penalties provided in 61-8-711 or 61-8-716."~~

13
14 ~~Section 5. Section 61-8-715, MCA, is amended to read:~~

15 ~~"61-8-715. Reckless driving -- reckless driving resulting in death -- reckless endangerment of~~
16 ~~highway workers -- penalty. (1) Except as provided in subsection (2), a person convicted of reckless driving~~
17 ~~under 61-8-301(1)(a) or (1)(b) or convicted of reckless endangerment of a highway worker under 61-8-301(4)~~
18 ~~shall be punished upon a first conviction by imprisonment for a term of not more than 90 days, a fine of not less~~
19 ~~than \$25 or more than \$300, or both. On a second or subsequent conviction, the person shall be punished by~~
20 ~~imprisonment for a term of not less than 10 days or more than 6 months, a fine of not less than \$50 or more than~~
21 ~~\$500, or both:~~

22 ~~(2) A person who is convicted of reckless driving resulting in death under 61-8-301 and or whose offense~~
23 ~~results in the death or serious bodily injury of another person shall be punished by a fine in an amount not~~
24 ~~exceeding \$10,000, incarceration for a term not to exceed 1 year, or both."~~

25
26 ~~Section 6. Section 61-8-716, MCA, is amended to read:~~

27 ~~"61-8-716. Careless driving -- careless driving resulting in death -- penalty. (1) A person who~~
28 ~~violates the provisions of 61-8-302 is guilty of the offense of careless driving and, except as provided in~~
29 ~~subsection (2), is punishable as provided in 61-8-711:~~

30 ~~(2) A person whose violation of the provisions of 61-8-302 results in the death or causes serious bodily~~

1 injury of another person shall be punished by a fine in an amount not exceeding \$5,000, by incarceration for a
2 term not to exceed 6 months, or both.

3 ~~——— (3) A person who is convicted of careless driving resulting in death shall be punished by a fine not~~
4 ~~exceeding \$5,000, by incarceration for a term not to exceed 1 year, or both."~~

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